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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,163	04/25/2002	Albert Modl	MODL3002/JEK	4360

23364 7590 02/23/2004

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EXAMINER
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ST CYR, DANIEL

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 02/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/030,163

Applicant(s)

MODL ET AL.

Examiner

Daniel St.Cyr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-13 and 15 is/are rejected.
- 7) ☒ Claim(s) 3,5,14 and 16-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/12/03 has been entered.

### ***Claim Objections***

2. Claims 8 and 9 are objected to because of the following informalities:

Claim 8, lines 2 and 3, "the" before "additional" should be changed to --an-- and before "environmental" should be deleted.

Claim 9, line 3 "the" before "sensor" should be changed to --a--.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 4, 6-13, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Olsen et al, US Patent No. 5,719,950.

Olsen et al disclose a biometric personal authentication system comprising: a fingerprint image sensor 10 inputting data for analysis to computer logic and memory functions 4 for unique, inherently specific identification, and non-specific biometric sensors 24, 26, and 28

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with signal process functions 30 inputting information for analysis to computer system 6 to recognize electrocardiogram (EKG), pulse, and blood oxygen saturation for nonspecific biometric validation and skin temperature for further optional validation; a fingerprint recognition camera 10; a detector window 42, the detected image is captured and analyzed by image processor 12, developed into a vector array of fingerprint minutiae which is validated by comparator 14 through correlation of the scanned image vector array with the array selected from pre-stored memory file 16. (see figures 1, 7, and col. 6+).

***Allowable Subject Matter***

5. Claims 3, 5, 14, and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: Although the prior art of record teaches a system for authenticating users which includes storing biometric data of users and additional data specific of the users influencing sensory detection, comparing the stored information with information obtained during authentication to match a specific threshold range, the prior art of record fails to disclose or fairly suggest all the details of the system including defining the threshold is determined based on the determined specific information of the user that influences the sensory detection, the system contains an cavity filter which is variable depending on the determined information, etc. These limitations in conjunction with other limitation in the claims were not shown by the prior art of record.

***Additional remarks***

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7. With respect to the applicant's argument that Osten et al fails to disclose using parameter that influences the sensory detection of the biometric data used to authenticate the individual, the examiner respectfully disagrees. Osten et al teach measures the skin temperature of the user, which inherently influences the sensory detection of the biometric data used to authenticate the individual (see figure 7). The skin temperature is directly related to the person and their biometric data being authentication. Both set of data are used to authenticate the user, so the specific information (determined parameter) is taken into account in redetecting and/or authenticating the user.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee et al, US Patent No. 5,982,914, disclose an identification of individuals from association of finger probes and macrofeatures. Cumbers, US Patent No. 6,554,705, discloses a passive biometric customer identification and tracking system.

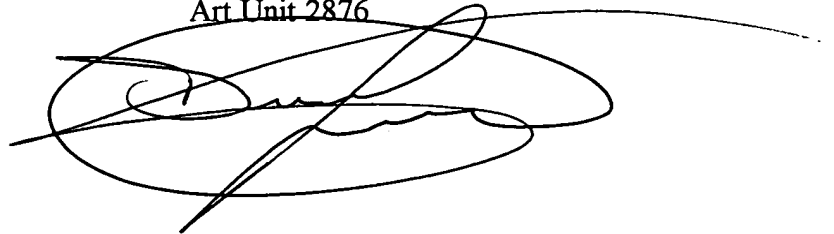
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel St.Cyr  
Primary Examiner  
Art Unit 2876

A handwritten signature in black ink, appearing to read 'Daniel St.Cyr', is written over a large, loopy oval shape. The signature is fluid and cursive.

DS  
September 10, 2004